SENATE BILL NO. 408

(By Senator Snyder, et al)

PASSED March 13, 2004

In Effect From Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 408
(BY SENATORS SNYDER, HELMICK, ROSS AND UNGER, original sponsors)

[Passed march 13, 2004; in effect from passage.]

AN ACT to amend and reenact §11-8-6f of the code of West Virginia, 1931, as amended; and to amend and reenact §18-9A-11 of said code, all relating generally to levies by county boards of education and expenditure of property taxes collected from the levies; allowing growth counties to use provisions of growth county school facilities act; providing that high-growth counties may place certain property tax revenues in a growth county school facilities act fund to be used for the benefit of school facilities in the high-growth county; allowing moneys in the fund to be carried over from year to year; and providing that revenues deposit in a growth
county school facilities act fund are not considered local share for purposes of the state aid formula.

Be it enacted by the Legislature of West Virginia:

That §11-8-6f of the code of West Virginia, 1931, as amended, be amended and reenacted; and that §18-9A-11 of said code be amended and reenacted, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 8. LEVIES.

§11-8-6f. Effect on regular school board levy rate when appraisal results in tax increase; creation and implementation of growth county school facilities act; creation of growth county school facilities act fund.

1 (a) Notwithstanding any other provision of law, where any annual appraisal, triennial appraisal or general valuation of property would produce a statewide aggregate assessment that would cause an increase of one percent or more in the total property tax revenues that would be realized were the then current regular levy rates of the county boards of education to be imposed, the rate of levy for county boards of education shall be reduced uniformly statewide and proportionately for all classes of property for the forthcoming tax year so as to cause the rate of levy to produce no more than one hundred one percent of the previous year's projected statewide aggregate property tax revenues from extending the county board of education levy rate, unless subsection (b) of this section is complied with. The reduced rates of levy shall be calculated in the following manner: (1) The total assessed value of each class of property as it is defined by section five, article eight of this chapter for the assessment period just concluded shall be reduced by deducting the total assessed value of newly created properties not assessed in the previous year's tax book for each class of property; (2) the resulting net assessed value of Class I property shall be multiplied by .01; the value of Class II by
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.02; and the values of Class III and IV, each by .04; (3) total the current year’s property tax revenue resulting from regular levies for the boards of education throughout this state and multiply the resulting sum by one hundred one percent: Provided, That the one hundred one percent figure shall be increased by the amount the boards of educations’ increased levy provided for in subsection (b), section eight, article one-c of this chapter; (4) divide the total regular levy tax revenues, thus increased in subdivision (3), of this subsection, by the total weighted net assessed value as calculated in subdivision (2) of this subsection and multiply the resulting product by one hundred; the resulting number is the Class I regular levy rate, stated as cents-per-one hundred dollars of assessed value; and (5) the Class II rate is two times the Class I rate; Classes III and IV, four times the Class I rate as calculated in the preceding subdivision.

An additional appraisal or valuation due to new construction or improvements, including beginning recovery of natural resources, to existing real property or newly acquired personal property shall not be an annual appraisal or general valuation within the meaning of this section, nor shall the assessed value of the improvements be included in calculating the new tax levy for purposes of this section. Special levies shall not be included in any calculations under this section.

(b) After conducting a public hearing, the Legislature may, by act, increase the rate above the reduced rate required in subsection (a) of this section if an increase is determined to be necessary.

(c) Growth county school facilities act. — Legislative Findings. —

The Legislature finds and declares that there has been, overall, a statewide decline in enrollment in the public schools of this state; due to this decline, most public schools have ample space for students, teachers and
60 administrators; however, some counties of this state have
61 experienced significant increases in enrollment due to
62 significant growth in those counties; that those counties
63 experiencing significant increases do not have adequate
64 facilities to accommodate students, teachers and adminis-
65 trators. Therefore, the Legislature finds that county
66 commissions in those high-growth counties should have
67 the authority to designate revenues generated from the
68 application of the regular school board levy due to new
69 construction or improvements placed in a growth county
70 school facilities act fund be used to for school facilities in
71 those counties to promote the best interests of this state’s
72 students.

73 (1) For the purposes of this subsection, “growth county”
74 means any county that has experienced an increase in
75 second month net enrollment, excluding kindergarten
76 students less than five years of age without an individual-
77 ized education program, of fifty or more during any three
78 of the last five years, as determined by the department of
79 education.

80 (2) The provisions of this subsection shall only apply to
81 any growth county, as defined in subdivision (1) of this
82 subsection, that, by resolution of its county board of
83 education, chooses to use the provisions of this subsection.

84 (3) For any growth county, as defined in subdivision (1)
85 of this subsection, that adopts a resolution choosing to use
86 the provisions of this subsection, pursuant to subdivision
87 (2) of this subsection, assessed values resulting from
88 additional appraisal or valuation due to new construction
89 or improvements, including beginning recovery of natural
90 resources, to existing real property or newly acquired
91 personal property, shall be designated as new property
92 values and identified by the county assessor. The state-
93 wide regular school board levy rate as established by the
94 Legislature shall be applied to the assessed value desig-
95 nated as new property values and the resulting property
96 tax revenues collected from application of the regular
school board levy rate shall be placed in a separate account, designated as the growth counties school facilities act fund. Revenues deposited in the growth counties school facilities act fund shall be appropriated by the county board of education for construction, maintenance or repair of school facilities. Revenues in the fund may be carried over for an indefinite length of time and may be used as matching funds for the purpose of obtaining funds from the school building authority or for the payment of bonded indebtedness incurred for school facilities. Estimated school board revenues generated from application of the regular school board levy rate to new property values are not to be considered as local funds for purposes of the computation of local share under the provisions of section eleven, article nine-a, chapter eighteen of this code.

(d) This section, as amended during the legislative session in the year two thousand four, shall be effective as to any regular levy rate imposed for the county boards of education for taxes due and payable on or after the first day of July, two thousand four. If any provision of this section is held invalid, the invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or its application and to this end the provisions of this section are declared to be severable.

CHAPTER 18. EDUCATION.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.


(a) On the basis of each county's certificates of valuation as to all classes of property as determined and published by the assessors pursuant to section six, article three, chapter eleven of this code for the next ensuing fiscal year in reliance upon the assessed values annually developed by each county assessor pursuant to the provisions of articles one-c and three of said chapter, the state board shall for
each county compute by application of the levies for general current expense purposes, as defined in section two of this article, the amount of revenue which the levies would produce if levied upon one hundred percent of the assessed value of each of the several classes of property contained in the report or revised report of the value, made to it by the tax commissioner as follows:

(1) The state board shall first take ninety-five percent of the amount ascertained by applying these rates to the total assessed public utility valuation in each classification of property in the county.

(2) The state board shall then apply these rates to the assessed taxable value of other property in each classification in the county as determined by the tax commissioner and shall deduct therefrom five percent as an allowance for the usual losses in collections due to discounts, exonerations, delinquencies and the like. All of the amount so determined shall be added to the ninety-five percent of public utility taxes computed as provided in subdivision (1) of this subsection and this total shall be further reduced by the amount due each county assessor's office pursuant to the provisions of section eight, article one-c, chapter eleven of this code and this amount shall be the local share of the particular county.

As to any estimations or preliminary computations of local share that may be required prior to the report to the Legislature by the tax commissioner, the state board of education shall use the most recent projections or estimations that may be available from the tax department for that purpose.

(b) Whenever in any year a county assessor or a county commission shall fail or refuse to comply with the provisions of this section in setting the valuations of property for assessment purposes in any class or classes of property in the county, the state tax commissioner shall review the valuations for assessment purposes made by the county
assessor and the county commission and shall direct the
county assessor and the county commission to make
corrections in the valuations as necessary so that they shall
comply with the requirements of chapter eleven of this
code and this section and the tax commissioner shall enter
the county and fix the assessments at the required ratios.
Refusal of the assessor or the county commission to make
the corrections constitutes grounds for removal from
office.

(c) For the purposes of any computation made in accor-
dance with the provisions of this section, in any taxing
unit in which tax increment financing is in effect pursuant
to the provisions of article eleven-b, chapter seven of this
code, the assessed value of a related private project shall
be the base assessed value as defined in section two of said
article.

(d) For purposes of any computation made in accordance
with the provisions of this section, in any county where the
county board of education has adopted a resolution
choosing to use the provisions of the growth county school
facilities act set forth in section six-f, article eight, chapter
eleven of this code, estimated school board revenues
generated from application of the regular school board
levy rate to new property values, as that term is designated
in said section, may not be considered local share funds
and shall be subtracted before the computations in subdi-
visions (1) and (2), subsection (a) of this section are made.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within ....... approved ........... this the ........... Day of ........... April ........... 2004.

Governor